



Order Filed on July 15, 2020
by Clerk
U.S. Bankruptcy Court
District of New Jersey

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

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*Proposed Counsel to the Debtor
and Debtor in Possession*

In re

CONGOLEUM CORPORATION,

Debtor.¹

Chapter 11
Case No. 20-18488 (MBK)

Hearing Date and Time:
August 6, 2020, at 10:00a.m. (EST)

**INTERIM ORDER PURSUANT TO 11 U.S.C. §§ 105(a) AND 363(b) AUTHORIZING THE
DEBTOR TO MAINTAIN AND ADMINISTER PRE-PETITION CUSTOMER
PROGRAMS AND PAY AND HONOR RELATED OBLIGATIONS**

The relief set forth on the following pages, numbered two (2) through six (6), is hereby
ORDERED.

DATED: July 15, 2020


Honorable Michael B. Kaplan
United States Bankruptcy Judge

(Page 2)

Debtor:

CONGOLEUM CORPORATION

20-18488 (MBK)

INTERIM ORDER PURSUANT TO 11 U.S.C. §§ 105(a) AND 363(b)A
AUTHORIZING THE DEBTOR TO MAINTAIN AND ADMINISTER P
RE-PETITION CUSTOMER PROGRAMS AND PAY AND HONOR
RELATED OBLIGATIONS

Upon the motion (the “**Motion**”)² of Congoleum Corporation, as debtor and debtor in possession in the above-captioned chapter 11 case (the “**Debtor**”), pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, for entry of an order (i) authorizing, but not directing, the Debtor, in the ordinary course of business and consistent with past practice to maintain, administer, pay, and otherwise honor its pre-petition Customer Programs, whether arising prior to or after the Petition Date, as necessary and appropriate in the Debtor’s business judgment and (ii) authorizing and directing financial institutions to receive, process, honor, and pay checks presented for payment and electronic payment requests relating to the foregoing to the extent the Debtor has sufficient funds standing to its credit with such financial institutions, all as more fully set forth in the Motion; and the Court having jurisdiction to decide the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157(a)-(b) and 1334(b); and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Motion having been given as provided in the Motion, and such notice having been adequate and appropriate under the circumstances; and it appearing that no other or further notice of the Motion need be provided; and the Court having held a hearing to consider the interim relief requested in the Motion (the “**Hearing**”); and upon the *Declaration of Christopher*

² Capitalized terms not otherwise herein defined shall have the meanings ascribed to such terms in the Motion.

(Page 3)

Debtor: CONGOLEUM CORPORATION
Case No. 20-18488 (MBK)
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O'Connor in Support of Debtor's Chapter 11 Petition and First Day Pleadings,, the record of the Hearing, and all of the proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion and granted herein is necessary to avoid immediate and irreparable harm to the Debtor and its estate as contemplated by Bankruptcy Rule 6003, and is in the best interests of the Debtor, its estate and creditors, and all parties-in-interest, provides a net benefit to the Debtor and its estate after taking into account the priority scheme of the Bankruptcy Code, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED** on an interim basis to the extent set forth herein.
2. The Debtor is authorized, but not directed, pursuant to sections 105(a) and 363(b) of the Bankruptcy Code, to maintain and administer the Customer Programs and honor any related pre-petition obligations in the ordinary course of business and consistent with past practice, as necessary and appropriate in the Debtor's business judgment; provided that the Debtor is authorized, but not directed, to pay only amounts due and payable as of the Petition Date and amounts that are or become due and payable between the Petition Date and the date that a final order on the Motion is entered, unless otherwise ordered by this Court.

(Page 4)

Debtor: CONGOLEUM CORPORATION
Case No. 20-18488 (MBK)
Caption of Order: INTERIM ORDER PURSUANT TO 11 U.S.C. §§ 105(a) AND 363(b)
AUTHORIZING THE DEBTOR TO MAINTAIN AND ADMINISTER
PRE-PETITION CUSTOMER PROGRAMS AND PAY AND HONOR
RELATED OBLIGATIONS

3. In accordance with this interim order (the “**Interim Order**”) (or other order of this Court), each of the financial institutions at which the Debtor maintain its accounts relating to the payment of the obligations described in the Motion is authorized and directed to (i) receive, process, honor, and pay all checks presented for payment and to honor all fund transfer requests made by the Debtor related thereto, to the extent that sufficient funds are on deposit in those accounts and (ii) accept and rely on all representations made by the Debtor with respect to which checks, drafts, wires, or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of this Court, whether such checks, drafts, wires, or transfers are dated prior to, on, or subsequent to the Petition Date, without any duty to inquire otherwise.

4. The Debtor is authorized, but not directed, to issue new post-petition checks, or effect new electronic funds transfers, on account of pre-petition Customer Programs to replace any pre-petition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtor’s chapter 11 case.

5. Any payment made or to be made under this Interim Order, and any authorization contained in this Interim Order, shall be subject to the terms of any orders authorizing the Debtor to incur debtor-in-possession financing and use cash collateral entered by this Court in this chapter 11 case.

(Page 5)

Debtor: CONGOLEUM CORPORATION
Case No. 20-18488 (MBK)
Caption of Order: INTERIM ORDER PURSUANT TO 11 U.S.C. §§ 105(a) AND 363(b)
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6. Nothing in the Motion or this Interim Order shall be deemed to authorize the Debtor to accelerate any payments not otherwise due prior to the date of the hearing to consider entry of an order granting the relief requested in the Motion on a final basis (the “**Final Hearing**”).

7. Nothing contained in the Motion or this Interim Order or any payment made pursuant to the authority granted by this Interim Order is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtor, (ii) a waiver of the Debtor’s or any party-in-interest’s rights to dispute any claim, or (iii) an approval or assumption of any agreement, contract, program, policy, or lease under section 365 of the Bankruptcy Code.

8. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by any party.

9. The requirements of Bankruptcy Rule 6003(b) have been satisfied.

10. The requirements of Bankruptcy Rule 6004(a) are waived.

11. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry.

12. The Final Hearing on the Motion shall be held on August 6, 2020, at 10:00 a.m. (Eastern Time) and any objections or responses to the Motion shall be in writing, filed with the Court, with a copy to chambers, and served upon (i) the proposed attorneys for the Debtor, Cole Schotz P.C., Court Plaza North, 25 Main Street, Hackensack, New Jersey 07602

(Page 6)

Debtor: CONGOLEUM CORPORATION
Case No. 20-18488 (MBK)
Caption of Order: INTERIM ORDER PURSUANT TO 11 U.S.C. §§ 105(a) AND 363(b)
AUTHORIZING THE DEBTOR TO MAINTAIN AND ADMINISTER
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(Attn: Warren A. Usatine, Esq., Felice R. Yudkin, Esq., and Rebecca W. Hollander, Esq.); and
(ii) the Office of the United States Trustee for Region 3, One Newark Center, 1085 Raymond
Boulevard, Suite 2100, Newark, New Jersey 07102, in each case so as to be received no later
than **4:00 p.m. (Eastern Time) on August 3, 2020**.

13. This Interim Order is effective only from the date of entry through this Court's
disposition of the Motion on a final basis; provided that the Court's ultimate disposition of the
Motion on a final basis shall not impair or otherwise affect any action taken pursuant to this
Interim Order.

14. Any party may move for modification of this Order in accordance with D.N.J.
LBR 9013-5(e).

15. A true copy of this Order shall be served on all required parties pursuant to D.N.J.
LBR 9013-5(f).

16. The Debtor is authorized to take all action necessary to carry out this Interim
Order.

17. This Court shall retain jurisdiction to hear and determine all matters arising from
or related to the implementation, interpretation, and/or enforcement of this Interim Order.